



Paper No. 8

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SEP 24 2002

In re Application of
Michael N. Macris et al.
Application No. 10/007,143
Filed: November 5, 2001
Attorney Docket No. 11493/6:4

OFFICE OF PETITIONS
DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 23, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 5, 2001 naming Michael N. Macris and David Dobney as joint inventors, but without a signed declaration.

Accordingly, on March 28, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on August 23, 2002, the present petition was filed with a request for a three month extension of time. Petitioners assert that a cover letter, the Application, a Declaration, a Preliminary Amendment, and an Assignment were sent to both inventors but that the envelope containing the packet sent to David Dobney was returned by the postal service as undeliverable. In support thereof, Petitioners provide a copy of the envelope which indicates the forwarding order has expired. Petitioners further state that they have been unable to locate Dobney.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) and (4).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.¹ A copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office.

¹MPEP 409.03(d).

Additionally, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate Dobney, send or give a copy of the application papers to him, and request that he sign and return the declaration. A brief Internet search conducted by the undersigned reveals that Dobney may now be living in Marysville, MI. If repeated attempts to contact Dobney by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Dobney cannot be found despite diligent efforts.

Additionally, since only a copy of the envelope sent to Dobney's last known address was provided, it is unclear whether the papers sent to Dobney are, in fact, the application papers filed in the USPTO on November 5, 2001. A copy of the cover letter transmitting the specification, including claims, drawings, if any, and the declaration, should be submitted with any renewed petition. Alternatively, petitioners may provide details in an affidavit or declaration of facts by a person with first hand knowledge of the details, stating that a copy of the application was sent or given to Dobney for review.

If Dobney refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If there an oral refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

In regards to item (4), as it appears that Dobney may now be residing at a different address than that listed in the initial petition, petitioners should verify the correct last known address for joint inventor Dobney, and provide a statement of the last known address in a renewed petition.

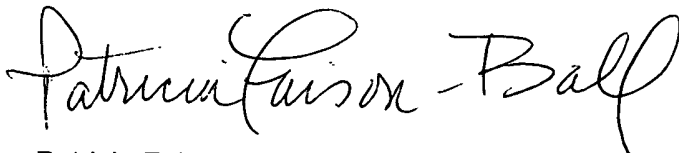
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.



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